



1001 North 23rd Street
Post Office Box 94040
Baton Rouge, LA 70804-9040

(O) 225-342-7561
(F) 225-342-5665
www.laworks.net

Bobby Jindal, Governor
Curt Eysink, Executive Director

Office of Workers' Compensation Administration

WORKERS' COMPENSATION ADVISORY COUNCIL

Meeting Minutes
January 28, 2010
LABI Conference Center
9:30a.m. – 12:00p.m.

Members Present:

Chris Broadwater, Chair
Dr. Jim Quillin
Troy Prevot
Eddie Crawford
Jim Patterson
Cherie Pinac
Dickie Patterson
Chuck Davoli
Mike Morris
Denis Juge

Conference phone call in:

Dr. Dan Gallagher
Ken Hawkins

Members absent:

Dr. Mark Kruse
Julie Cherry
Dr. Joe Laughlin
Clark Cosse
Greg Hubachek

In addition, attending from OWCA:

Larry White, Deputy Director
Sue Newman, Medical Services Manager
Pauline Williams, 2nd Injury Director
Willis Callihan, OSHA Director
Sandra Stokes, OSHA Consultation Manager
Kaye Fournet, Fraud Manager
Sheral Kellar, Chief Judge
Judy Franklin, Statewide Mediator

Welcome – Chris Broadwater, Director

Director Broadwater welcomed the Council back for the new year. He stated that as the pre-file deadline for the 2010 legislation session is approximately 45 days away, the Council needs to establish some priorities for what

can be reasonably accomplished between now and the deadline, and assign responsibility to who will lead those priorities. Although there will be other bills brought up this session, the Council needs to focus its attention on the priorities. For the additional bills that various parties would like to bring to the Council, discussions will be reserved for a later meeting date.

Update on OWCA Sections:

OWC Hearings - Shreveport Judge Ryan Gatti has resigned. Carey Holliday has been hired and will start work on 2-18-10. Carey was appointed by President Bush as a federal immigration judge in the Miami district. He was assigned to the docket that was the largest docket in Miami, which had the most immigration cases. Within 2 years he reduced that docket down to almost nothing and had among the highest performance rates of anyone in the federal immigration bench.

OWC Fraud – In 2009 over 3100 investigations were conducted, referred 21 cases for prosecution, of that 21 there were 13 employers, 7 employees, and 1 attorney. The employer cases all stem from fraudulent certificates, misclassification, and compliance issues. Kaye Fournet has done an outstanding job. In January of this year, 5 cases have been referred for prosecution.

2nd Injury Fund – Pauline Williams and her staff have done an excellent job in moving the fund back in the right direction of getting the program more responsive. In 2008 there were over 950 claims, 1200 closed, 947 decisions rendered. In addition to that, there were over 2,200 ongoing claims with reimbursements. These claims are down to 1,900 at the present time. In 2009, there were approximately 1,050 new claims, just under 1,700 closed, and over 1400 decisions rendered. As such, the 2009 numbers reflect that the SIF staff is moving more cases and certainly has the SIF trending in the right direction.

Every single section of the OWCA has improved their performance this past year.

Cost Containment Report – Willis Callihan and Sandra Stokes – OSHA Unit

In accordance with R.S. 23: 1180, the Council should provide to the legislature, an annual report on the performance of the cost containment program and to provide some analysis on how it is functioning. Presentation was presented by the OSHA unit. Please see attached presentation.

Update on Evaluation and Selection of Evidence Based Guidelines

All scheduled meetings for the Medical Advisory Council have been posted on the website (www.laworks.net). A meeting of all the panel members of the Council was held a few weeks ago, to give an overview as to expected achievements and goals. The upper extremity sub panel met and began discussions on pros and cons of each of the guidelines. The public is welcome to attend the meetings. Teresa is notifying the public via her email notification list. Please let her know if you need to be added to the list. A phone conference line has been set up for the panel members to meet via conference call. We have also distributed a list of the panel members, which can also be found on the website.

Dickie Patterson asks if Medical Advisory is on track to meet the September 2010 deadline.

Director Broadwater had hoped that the panels would have the base model established before the end of 2009. This was difficult to do, as it was very time consuming to establish the panels, get the information out. The Director and Dr. Ferachi would like for the panels to at least have the base model established by the end of March. Guidelines will be in place for October 2010. The Director has met with an organization to schedule a

statewide convention, put on by the OWCA specifically for training on guidelines. The tentative date is August 18, 19, and 20 , 2010. These dates are not yet confirmed. The convention will be here in Baton Rouge. The training will be concentrated on doctors, lawyers, adjusters, etc. on guidelines. There will be CLE and CE credits.

Discussion of Potential Legislation for 2010 Regular Session

- Revamp of Second Injury Fund –

The COSG recommended eliminating the 2nd Injury Fund. The Administration disagrees with that decision for the following reasons:

1. According to NCCI study, elimination of the fund would result in an increase in premiums of 4% to 6% over the next several years.
2. The priority established by the Executive Director, Curt Eysink, for the LWC, is to have better integration between the programs that are part of the LWC. The responsibility of the LWC is to get people into jobs. The 2nd Injury Fund can be an avenue that could integrate OWC and OWD.

Priority of the Council is to draft legislation to re-vamp the 2nd Injury fund. Chuck Davoli volunteered to chair the 2nd Injury Fund subcommittee.

Denis Judge suggested that we go back to original law, in filling out affidavits by employers before injury. Possibly in the form of a post employment questionnaire, created by the OWC.

Director Broadwater stated that he would like Pauline Williams, Director of the 2nd Injury Fund to work with Chuck on the sub-committee. The goal/outcome needs to be -does this further the opportunity to getting people to work.

Pauline Williams is researching other states that have eliminated their 2nd Injury Fund.

- Converting Mediation to Voluntary Process

Judge Keller has established a sub-committee with members from both sides of the bar, including some judges, to re-write the rule in regard to mediation. The statute will also have to be re-vamped. Director Broadwater, Judge Kellar and Judy Franklin will take the lead on redrafting the statute for review by the Council at the next meeting.

- Establishment of Return to Work Fund

Jim Patterson, Chuck Davoli and Ken Hawkins are working on draft to be ready for Council's review by the next meeting.

Other Business

Chuck Davoli is researching 1201 F. penalties. He is also working on an issue of average weekly wage he is drafting legislation on. Also, he is working on an issue regarding employers who knowingly hire un-documented workers. There need to be disincentives in place.

Jim Patterson is working on re-drafting the pre-amble language and case manager issue.

Director Broadwater is working on re-visiting the civil penalty side on some of the fraud cases. Several states have gone to a system where they pay a penalty of one and half times of the premium owed. The question becomes what premium basis is used to determine the calculation. Director Broadwater is working with Denis Kokulak of NCCI and Jeff Albright to assist in establishing those baseline premiums.

Troy Prevot suggests to direct penalties towards the Return to Work Fund.

Director Broadwater introduces newly hired AG attorney, Wes Hataway. Wes will serve as General Counsel, and also work on the prosecution of fraud cases.

Public Comment

No public comment

Next meeting will be February 25th. Please send drafts of legislation before that date so they can be circulated.

Adjourn